



COURT OF APPEALS ISSUES DECISION IN AHCCCS CASE

Phoenix, Arizona - The Arizona Court of Appeals (Division One) has ruled in favor of the State in a lawsuit contending Proposition 204, a voter enacted initiative, required the State to fund health care benefits for all childless adults living at or below the federal poverty level under the State's Medicaid program, the Arizona Health Care Cost Containment System ("AHCCCS").

The court's opinion determines that whether the Legislature, as required by Proposition 204, has appropriated supplemental funding from "any other available sources" is a political question not appropriate for judicial review.

Proposition 204, enacted in 2000, extended health care coverage to all eligible individuals, including childless adults. Proposition 204 funded benefits for the expanded population from the Tobacco Litigation Settlement Fund and additionally stated that the Settlement Fund "shall be supplemented, as necessary by any other available sources including legislative appropriations and federal monies."

Because the Settlement Fund has historically failed to provide sufficient funding for the expanded coverage, the Legislature has made up the shortfall with appropriations from the State's general fund.

But, faced with the State's budget difficulties, in early 2011 the Legislature reduced AHCCCS funding by nearly \$1.6 billion, after finding the amount it had appropriated for Proposition 204 services included "all available sources of funding."

AHCCCS subsequently closed new childless adult enrollment as of July 8, 2011, although it has continued to provide benefits to childless adults enrolled before that date.

In their lawsuit against the State and AHCCCS, Petitioners alleged the Legislature had failed to provide sufficient funding for all eligible childless adults from "other available sources." They also argued the July 8 enrollment freeze violated another provision of Proposition 204 that prohibited the State from establishing a "cap on the number of eligible persons who may enroll in the system."

Petitioners further argued the enrollment freeze violated the Voter Protection Act, a provision in the Arizona Constitution restricting the Governor and Legislature from repealing or amending voter approved initiatives. The superior court rejected those arguments. Petitioners then requested the Court of Appeals accept the case for accelerated disposition, which it did. The Court of Appeals affirmed the superior court's dismissal of Petitioners' claims, but did not adopt its reasoning.

In its decision, the Court of Appeals agreed with Petitioners that Proposition 204 required the Legislature to appropriate supplemental funding from "any other available sources." The Court held, however, that whether the Legislature had actually appropriated all available sources of funding (as it said it had done) and whether the resulting enrollment freeze violated Proposition 204 and the Voter Protection Act was a controversy that presented a "nonjusticiable political question," that is, a political question not subject to judicial resolution.

The court explained, first, the Arizona Constitution assigns funding and budget decisions to the Legislative and Executive branches of State government, and second, Proposition 204 failed to provide the court with any objective standards it could apply to determine whether the Legislature had in fact provided funding from "any other available sources."

The court wrote: "In deciding what other available sources exist, the Legislature has had to make (and will have to make) subjective policy choices: should it allocate monies that would otherwise be used to fund our schools, prisons, parks, and highways . . . [o]r should it raise taxes to obtain other available sources? These are not issues a court should review; it is not our constitutional role to assess the soundness of the State's financial prioritizations."

Judge Patricia K. Norris wrote the court's decision. Judges Michael J. Brown and Philip Hall concurred. For full opinion can be found on the web at

<http://azcourts.gov/Portals/89/opinionfiles/SA/SA110204.pdf>

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